

REMARKS

In the September 22, 2003, Final Office Action, claims 1-3 and 6-20 were rejected under 35 U.S.C. § 102(b) as being anticipated by Denley, U.S. Pat. No. 5,779,343; claims 1-3 and 6-20 were rejected under 35 U.S.C. § 102(b) as being anticipated by Schmitt, U.S. Pat. No. 5,309,780 (disclosed by applicant, but inadvertently cited in portions of the Office Action as "Schmitt '980"); and claims 4-5 and 21-22 stand rejected under 35 U.S.C. § 103(a) as being obvious over Denley or Schmitt in view of Denley, U.S. Pat. No. 5,355,287.

There were six independent claims considered by the Office, claims 1, 8, 15, 20, 21, and 22. In response to the Final Office Action, Applicant has amended claims 1 and 20-22 and presents additional arguments to overcome the rejections under 35 U.S.C. §§ 102 and 103. Claims 1-22 are presently in the case and presented for reconsideration.

Rejection of Claims 1-3 and 6-20 Under 35 U.S.C. § 102(B) Over Denley, U.S. Pat. No. 5,779,343

The Office maintained the rejections of claims 1-3 and 6-20 under 35 U.S.C. § 102(b) as being anticipated by Denley '343. Applicant respectfully disagrees with the Office's view of the teachings of Denley '343 in that there is at least one element in rejected claims 1-3, 6-7 and 20 not taught by the cited reference, namely the selective engagement of the driven portion of the ball stud to the adjustment gear such that there is a disengagement when a maximum or a minimum adjustment is reached. Further, there is at least one recited in claims 8-19 that is not taught by Denley '343, namely the clutching means.

With respect to the claimed selective engagement of the driven portion of the ball stud to the adjustment gear (claims 1-3, 6-7, 11, and 15-20), Applicant has reviewed Denley '343 and cannot identify any teaching of such a selective engagement. By contrast, it appears that when the Denley '343 adjuster is assembled, the gear section 32 of the link 30 is in constant engagement with the drive gear 72 formed on the drive shaft 70. (Denley '343, col. 3, line 65 – col. 4, line 10.)

With respect to the clutching of claims 8-19, the Office Action cited reference number 94 in Denley '343 as somehow being a clutching mechanism. The purpose of the clutching mechanism described by the Specification of the present application is to prevent failure of the adjustment mechanism due to over-adjustment. However, the device shown in Denley '343 would fail if it were over-adjusted in either direction. Because the Denley adjuster cannot prevent over-adjustment of the adjustment gear, it cannot be viewed as having any type of clutching means. Further, while the Office Action identifies element 94 in Denley '343 as a "clutching mechanism" it is simply not one. Rather, element 94 relates to "a pair of flanges 94, 95 which engage similarly shaped slots 63,64 in the body portion 52 of the housing 50 and prevent the nut 90 halves from separating with respect to each other under axial loading of link 30." (Denley '343, col. 6, line 66 – col. 7, line 3.)

Therefore, Applicant respectfully requests that the rejection of claims 1-3 and 6-20 under 35 U.S.C. § 102(b) as being anticipated by Denley '343 be withdrawn.

Rejection of Claims 1-3 and 6-20 Under 35 U.S.C. § 102(B) Over Schmitt, U.S. Pat. No. 5,309,780

The Office maintained the rejections claims 1-3 and 6-20 were also rejected under

35 U.S.C. § 102(b) as being anticipated by Schmitt '780. Applicant respectfully disagrees with the Office's view of the teachings of Schmitt '780 in that there is at least one element in rejected claims 1-3, 6-20 not taught by the reference, namely the selective engagement of the driven portion of the ball stud to the adjustment gear, such that there is a disengagement when a maximum or a minimum adjustment is reached. Further, there is at least one element recited in claims 8-19 that is not taught by Schmitt '780, namely the clutching means.

With respect to the claimed selective engagement of the driven portion of the ball stud to the adjustment gear (claims 1-3, 6-7, 11, and 15-20), Applicant has reviewed Schmitt '780 and cannot identify any teaching of such a selective engagement. Rather, it appears that when the Schmitt '780 adjuster is assembled, the planar surfaces 68 of the shaft 30 of the ball stud are in constant engagement with the gear flats 70 of the gear bore 66 such that rotation of the adjustment gear 64 rotates the shaft 30 and the engagement of the shaft 30 with the nut body 54 causes axial displacement of the shaft 30. (Schmitt '780, col. 5, lines 43-68.)

With respect to the clutching of claims 7-19, the Office cited reference number 80 in Schmitt '780 as somehow being a clutching mechanism. The purpose of the clutching mechanism described by the Specification of the present application is to prevent failure of the adjustment mechanism due to over-adjustment. However, the device shown in Schmitt '780 would fail if it were over-adjusted in either direction. Because the Schmitt adjuster cannot prevent over-adjustment of the adjustment gear, it cannot be viewed as having any type of clutching means. Further, while the Office Action identifies element 80 in Schmitt '780 as a

“clutching mechanism” it is simply not one. Rather, element 80 relates to a neck 80 that is part of the adjustment gear 64. (Schmitt '780, FIGS. 2 and 3 and col. 5, lines 31-42.)

Therefore, Applicant respectfully requests that the rejection of claims 1-3 and 6-20 under 35 U.S.C. § 102(b) be withdrawn.

Rejection of Claims 4-5 and 21-22 Under 35 U.S.C. § 103(a) Over Denley or Schmitt, in light of Denley, U.S. Pat. No. 5,355,287

Claims 4-5 and 21-22 were rejected under 35 U.S.C. § 103(a) as being obvious over Denley '343 or Schmitt '780 in view of Denley '287. Denley '287 is cited as teaching a gasket and an O-ring. While Applicant does not dispute that the use of gaskets and O-rings in headlamp adjusters is well known, as described above, neither Denley '343 nor Schmitt '780 teach selective engagement of the ball stud when it is attached to the adjuster housing, nor the clutching feature. Thus, Applicant respectfully requests that the rejection of claims 4-5 and 21-22 under 35 U.S.C. § 103(a) be withdrawn.

**CONCLUSION**

In view of the amendments and remarks presented above, Applicant respectfully requests reconsideration of claims 1-22 and requests that the rejections of these claims under §§ 102(b) and 103(a) be withdrawn. Applicant believes that the application is now in condition for allowance, and respectfully requests notification of same. The Examiner is encouraged to telephone the undersigned in the event a telephone conference would expedite prosecution of the application.

Respectfully submitted,

GODFREY & KAHN, S.C.

Dated: Dec. 22, 2003

By: Brian G. Gilpin  
Brian G. Gilpin  
Reg. No. 39,997

Attorneys of Record for Applicants  
GODFREY & KAHN, S.C.  
780 North Water Street  
Milwaukee, WI 53202-3590  
(414) 273-3500  
[bgilpin@gklaw.com](mailto:bgilpin@gklaw.com)

AP42404\_1.DOC